

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U 338 E) for Approval of a Power Purchase Agreement Between the Utility and an Affiliate and for Authority to Recover the Costs of Such Power Purchase Agreement in Rates.

Application 05-12-030
(Filed December 23, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING RECEIVING E-MAIL
COMMUNICATIONS INTO THE RECORD**

During the evidentiary hearing on April 5, 2006, I asked various questions concerning two provisions in the proposed Settlement Agreement. The first set of questions concerned paragraph 7 which requests that the Commission leave this proceeding open for approval of similar QF contracts from Eligible Parties.¹ The second set of questions concerned paragraph 13 which requests that the Commission include any above-market costs of the KRCC Contract, and similar QF contracts, in the Competition Transition Charge.²

On April 6, 2006, I sent an e-mail to all parties which included questions on the same two provisions in the Settlement Agreement. On April 10, 2006, counsel for Southern California Edison Company, acting on authority from the

¹ See, TR 13-20.

² See, TR 20-25.

Settling Parties to the Settlement Agreement, replied to my April 6, 2006 questions.

The answers contained in the April 10, 2006 e-mail should be made part of the record.

IT IS RULED that the attached e-mail from Case.Admin@sce.com is made part of the record in this proceeding.

Dated April 26, 2006, at San Francisco, California.

/s/ Bruce DeBerry
Bruce DeBerry
Administrative Law Judge

ATTACHMENT

-----Original Message-----

From: Case.Admin@sce.com [<mailto:Case.Admin@sce.com>]

Sent: Monday, April 10, 2006 2:32 PM

To: DeBerry, Bruce

Subject: A.05-12-030 KRCC Settling Parties Responses to Questions re. KRCC Settlement Agreement

To all parties on the e-mail service list for A.05-12-030:

Sent on behalf of Frank Cooley:

ALJ DeBerry:

Responding to your April 6 e-mail regarding the allocation and recovery of any above market costs associated with the KRCC contract, I am authorized by the Settling Parties to state:

In response to your note regarding the allocation of above-market costs, the Settling Parties believe the Settlement Agreement Section 13 is broad and flexible enough to allow the Commission to direct the utilities to recover the above-market costs of the KRCC contract in a manner that is consistent with the law and prior Commission decisions.

In negotiating this provision, the Settling Parties understood that the Commission's treatment of CTC has been the subject of Commission decisions, most recently D.05-12-041. In that decision the Commission decided that community choice aggregation (CCA) customers that depart prior to a QF contract being renegotiated are not responsible for the above market costs of those contracts. The Commission concluded that "The CRS should not be modified to reflect cost liabilities associated with QF contract renewals or modifications negotiated after the initiation of CCA service." D.05-12-041, Conclusion of Law 21. However, a decision regarding whether existing direct access customers would be responsible for the above-market costs associated with such contracts has not been made by the Commission.

Code Section 367(a)(2) deals with the buy-out or buy-down or renegotiated contract costs to be included in CTC if the life of the contract is not extended. If the above-market costs recovered through CTC are associated with an extension, they are allowed such recovery under Code Section 367(a)(2). The Commission's treatment of QF contract extension costs was addressed in PG&E's 2004 ERRR proceeding and the Commission in D.05-10-046 rejected arguments raised on rehearing of D. 05-01-031, concluding that the QF contracts at issue were simply extended and no buy-out, buy-down, or renegotiation was involved. Any above-market costs associated with the KRCC Contract should be given similar treatment because it could reasonably be considered an extension of the existing RS01 contract with KRCC. Given that we cannot at this time know the nature of the deals that will be struck with

Eligible QF Parties, it would be best for the Commission to simply direct SCE to present its recommendation for the treatment of any above-market costs associated with those contracts in its ERRA proceeding.

Responding to your question regarding Section 7 of the Settlement Agreement, I am authorized by the Settling Parties to state:

The intent of the reopener language in Paragraph 7 is to provide a means to allow Eligible QF Parties to reopen the proceeding without opposition to resolve disputes regarding SCE's good faith negotiations with the Eligible QF Parties. The Settling Parties do not believe, however, that the only way to bring an Eligible QF Party's non-standard contract to the Commission for review and approval is by reopening the KRCC application. Such contracts could be presented to the Commission in a separate application or by other means that are appropriate for approval of the Eligible QF Party contract. The goal of the Settling Parties is to have any such contracts reviewed expeditiously. The Settling Parties are amenable to whatever procedural vehicle the Commission authorizes for that approval.

If you have any other questions re. the Settlement Agreement, please contact me and I will be happy to solicit input from the other Settling Parties.

I am having this note served on the service list in this proceeding, even though all active parties support the Settlement Agreement.

Thank you for your consideration of this matter.

Frank J. Cooley
Section Manager, Energy Cost Recovery
Tel.: (626) 302-3115; Fax: (626) 302-1935
Cell: (818) 404-2541
frank.cooley@sce.com

Case Administration
Southern California Edison Company
Telephone (626) 302-4875
Fax (626) 302-3119
Case.Admin@SCE.com

(END OF ATTACHMENT)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Receiving E-mail Communications into the Record on all parties of record in this proceeding or their attorneys of record.

Dated April 26, 2006, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.